

NEBRASKA DEPARTMENT
OF INSURANCE

SEP 24 2004

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,

PETITIONER,

VS.

MISSOURI RIVER TITLE COMPANY,
INC. AND JOHN P. FAHEY,

RESPONDENT.

CONSENT ORDER

CAUSE NO. A-1589

SEP 20, 2004 ACCT# 8521 \$1,000.00
NO-INVOICE TRAN# 1363922
FAHEY, JOHN P
CHECK# 16337

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Janette L. Adair and Missouri River Title Company, Inc. and John P. Fahey ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb.Rev.Stat. §§44-101.01 (Reissue 1998), §44-4047 et seq. (Reissue 1998) and 44-19,106 et seq. (R.S.SUPP.,2003).

2. Respondent was licensed as an insurance agent under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Missouri River Title Company, Inc. and John P. Fahey, Cause Number A-1589 on August 27, 2004. A copy of the petition was served upon the Respondent at the Respondent's address registered with the Department by certified mail, return receipt requested.

2. Respondent violated Neb. Rev. Stat. §§44-1525(11) (R.S.SUPP.,2003) and 44-4059(1)(b) as a result of the following conduct:

- a. On or about February 19, 2004, Barbara Ems, Insurance Investigator for Petitioner, sent a letter to Respondent requesting information regarding an investigation. The letter specifically stated, "Nebraska insurance laws require a response no later than 15 working days from the receipt of this letter. Failure to do so is considered to be an unfair trade practice." Respondent failed to respond within 15 working days.
- b. On or about March 16, 2004, Ems sent a second letter to Respondent, attaching a copy of the February 19, 2004 letter, noting Respondent's failure to respond to the February 19, 2004 letter. On or about March 19, 2004, Ems received a letter from Respondent stating "I should be able to provide a response within a few days." Respondent failed to provide any further response.
- c. On or about April 13, 2004, Jane Francis, Administrator of the Consumer Affairs Division for Petitioner, sent a third letter via certified mail to Respondent stating that "a reply has not been received", requesting an immediate response, and enclosing copies of the February 19, 2004 and March 16, 2004 letters. The letter specifically stated, "[f]ailure to respond to this Department within fifteen working days will be a violation of the Unfair Insurance Trade Practices Act." Petitioner received a return receipt card from the United State Postal Service verifying that letter was delivered to Respondent on April 15, 2004. Respondent failed to respond within 15 working days of receipt, and Petitioner obtained the requested information through the service of a subpoena on May, 14, 2004.

3. Respondent was informed of his right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

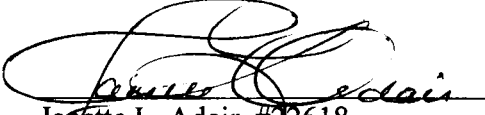
4. Respondent admits the allegations stated in Paragraph 2.

CONCLUSIONS OF LAW

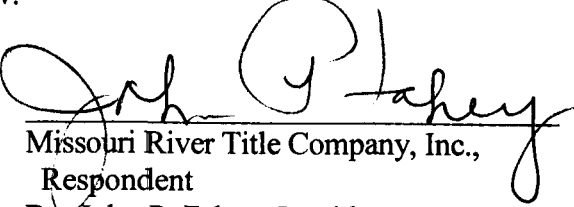
Respondent's conduct as alleged above constitutes a violation of Neb. Rev. Stat. §§44-1525(10) (R.S.SUPP., 2003) and 44-4059(1)(b) (R.S.SUPP., 2002).

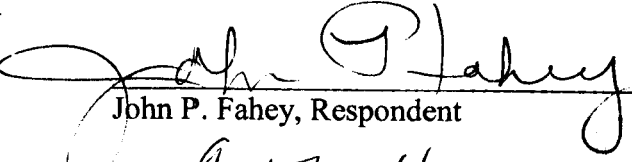
CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed by Respondent, Missouri River Title Company, Inc. and John P. Fahey, that Respondent shall pay an administrative fine in the amount of one thousand dollars (\$1000.00) due within 30 days after the Director of Insurance or his designee approves and signs this consent order. In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing his signature below.


Janette L. Adair, #22618
Attorney for Petitioner
941 "O" Street, Suite 400
Lincoln, NE 68508
(402) 471-2201

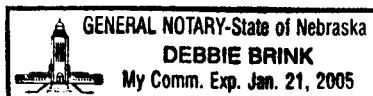
9-22-04
Date

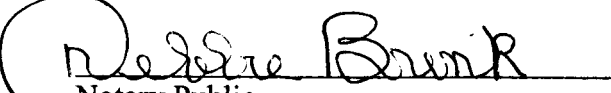

Missouri River Title Company, Inc.,
Respondent
By: John P. Fahey, President
9-17-04
Date


John P. Fahey, Respondent
9-17-04
Date

State of Nebraska)
County of Douglas) ss.

On this 17 day of Sept, 2004, John P. Fahey personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.




Notary Public

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Missouri River Title Company, Inc. and John P. Fahey, Cause No. A-1589.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

9/24/04

Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent, at 1623 Farnam Street #850, Omaha, NE 68102, by certified mail, return receipt requested on this 27th day of September, 2004.

Tracy A. Gurn